



## Department of Community Development

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To: Planning Commission  
From: Evan Maxim, Senior Planner  
RE: Staff Recommendation Memo #2:  
Streams, Fish and Wildlife Habitat Conservation Areas (FWHCA) - ECA Regulations

April 27, 2012

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### Background:

This memorandum is intended to provide the Planning Commission with a staff summary of policy choices for amendments to the existing Environmentally Critical Areas regulations based upon the Best Available Science by A) clearly identifying recommended changes to the city code for Streams and Fish and Wildlife Habitat Conservation Areas, and B) providing the basis for the recommendation.

Other amendments have also been identified in this memorandum for the Planning Commission's consideration, in particular the specific recommendations for amendments by the public. These amendments are identified separately for the Planning Commission's consideration.

Please recall that the Planning Commission will consider whether to advance the identified amendments to the next Planning Commission review and provide further direction to staff as necessary. Staff will incorporate the further direction into the proposed code amendments for public review and Planning Commission action later in the schedule.

**Summary:** Please note that the numbering within this document will correspond to the numbering assigned to the proposed amendments contained in the forthcoming and attached draft code amendments. The city has not yet prepared draft language for the proposed amendments below, but will do so based on direction provided on May 3<sup>rd</sup>..

Consultant Report recommendations. The staff has identified the following amendments to the Environmentally Critical Areas Regulations based upon the Best Available Science Report provided by the city's consultant:

- 2-1. Amend wildlife corridor regulations after the City has determined the needs of the species it most wants to protect and the constraints posed by existing development. The city currently requires a 300 foot wide wildlife corridor, but does allow for a minimum width of 150 feet in some circumstances. If the Planning Commission elects to advance this recommendation to the public hearing in July, the consultant has recommended that we use the following approach:
  - a. Identify wildlife species that are of greatest interest to the City to protect;
  - b. Propose regulations based upon management recommendations from the Washington Department of Fish and Wildlife (WDFW) for identified species of interest to the City;
  - c. Evaluate the degree to which existing or potentially new wildlife corridors in the City are already significantly constrained by existing development.

**Staff Comment:** If the Planning Commission elects to advance this recommendation, the staff will provide a summary of WDFW management recommendations and associated animals for the Planning Commission's review consistent with the above criteria.

- 2-2. Amend the minimum width of wildlife corridors to increase wildlife protection in those areas not already constrained by existing development. Similar to the item 2-1, the current code allows a minimum corridor width of 150 feet. However, many animals require a larger buffer width; consequently increasing the minimum buffer width where practicable would provide for greater wildlife protection.

**Staff comment:** If the Planning Commission elects to advance this recommendation, the staff will provide a summary of buffer widths as well as any other WDFW management recommendations and associated animals for the Planning Commission's review consistent with the above criteria.

- 2-3. Require that trails crossing streams and aquatic areas use bridges and raised boardwalks. The city's standards for stream crossings focus primarily on road and utility crossings. The recommended changes would explicitly require that trail crossings of streams use bridges and boardwalks consistent with the design requirements of the Washington Department of Fish and Wildlife. The Washington Department of Fish and Wildlife standards constitute the best available science for trail crossings.

**Staff comment:** The staff recommends *advancing* this amendment to July.

- 2-4. Add functional criteria for allowing buffer reductions. The city currently allows buffer reduction as part of a development proposal (either through buffer averaging or buffer reduction). Buffer reduction is evaluated in part based upon the expected change in a specific function of the buffer (e.g. an improvement to water quality). The provisions allowing buffer reduction should be amended to specify that reductions based on a specific rationale achieve significant net improvement in the function(s) affected by the mitigation, given that other functions may be harmed by the reduction. The rationale for buffers is based on their multiple functions, so the rationale for modifying them should similarly be function-based.

**Staff comment:** The staff recommends *advancing* this amendment to July.

- 2-5. Add functional criteria for increasing buffer widths. Similar to item 2-4, the city has the option to require increased buffer widths to provide appropriate protection for streams when appropriate. The provisions should be amended to specify the functional basis for increasing buffer widths.

**Staff comment:** The staff recommends *advancing* this amendment to July.

- 2-6. Authorize relocations of Type F streams for restoration purposes (amend language authorizing stream restoration to include stream relocation). The ECA regulations currently authorize stream relocations for Type Np and Ns streams as part of a restoration project, but limit relocations of Type F streams further (e.g. only allowing relocation if necessary for a street, park, trail project). Relocation of Type F streams to allow stream enhancement / restoration would provide additional flexibility in designing stream restoration projects.

**Staff comment:** The staff recommends *advancing* this amendment to July.

- 2-7. Prohibit relocations of Type F streams for public road, trail, or park projects. As noted in item 2-6, the ECA regulations currently authorize stream relocations for Type F streams if necessary for a street, park, or other "public" improvement. Relocation of Type F streams for public improvement projects is generally not supported by Best Available Science; such relocations could be prohibited.

**Staff comment:** The staff recommends *not advancing* this amendment to July. The city's existing policy is to balance necessary infrastructure improvements with environmental protection. Preserving the option for the city to balance various public interests in this fashion is appropriate.

- 2-8. Provide for a fee-in-lieu mitigation program for stream impacts, if such a program is adopted as part of the wetland mitigation approach. The ECA regulations currently do not allow for fee-in-lieu mitigation except in circumstances where a Reasonable Use Exception or Public Agency / Utility Exception are approved. The consultant has suggested that if a fee-in-lieu program is adopted by the city for wetland mitigation, then the city should evaluate a similar program for streams where impacted stream functions can be mitigated off-site.

**Staff comment:** The staff recommends *not advancing* this amendment for streams to July. The city does not know how this could work practically. Appropriate mitigation for streams cannot be exported outside of the city limits and actually provide a benefit to streams within Sammamish.

- 2-9. Provide a definition and standards for Type O streams. The ECA regulations do not currently include a definition or standards for Type O streams. Type O streams are streams that do not ultimately flow into fish bearing waters (e.g. Lake Sammamish) and have been adopted by some jurisdictions to reflect such a situation.

**Staff comment:** The staff recommends *not advancing* this amendment to July for several reasons:

- a. There are no known Type O streams within Sammamish or within the potential annexation areas.
- b. Type O streams are not consistent with the Best Available Science (BAS) for stream typing provided by WAC 222-16-030.
- c. Creating a definition for a stream that does not exist within the boundaries of Sammamish could create unnecessary complexity.

Public Comment recommendations. The staff has identified the following amendments to the Environmentally Critical Areas Regulations based upon public comment for the Planning Commission to consider advancing to July:

- 2-10. Property owners should have the option to delineate stream buffers (public comment #73). Currently buffers are established from the OWHM of a stream, and the size of the buffer is based on the type of stream feature. Buffers should be based upon site conditions surrounding the stream rather than a one-size-fits-all approach. Human-made improvements that constitute a de facto barrier to influence should define the barrier of the stream buffer (e.g. a house in the buffer should represent the edge of the buffer).
- 2-11. Distinguish between developed and un-developed land when establishing stream buffers (public comment #73). Provide for reduced buffers in developed areas where human created improvements are currently located within a buffer, as opposed to un-developed areas where new development proposals are under consideration. **Staff comment (2-10 & 2-11):** Staff recommends *advancing* this amendment for additional consideration in July. Adopting this option may provide additional tools for permit review and may also result in additional expense for the applicant. Additional staff analysis and research will be conducted on the following:
- a. How a “tailored” or site-specific buffer approach would be supported by Best Available Science,
  - b. Ease of use for city and applicants
  - c. How to ensure consistency between applications and over time, and adequate record keeping.
  - d. Identifying the policy basis for the amendment.
- 2-12. Re-define streams as only those features described in WAC 173-22-030. Staff clarified with the commenter that the WAC definition was not the pertinent issue. Rather the concern focuses on better criteria for defining streams under the city code. **Staff comment:** The staff recommends *advancing* this amendment for additional consideration in July as part of the administrative set of topics. Additional staff analysis and research will be conducted on the following:
- a. How a new stream typing approach would be supported by Best Available Science.
  - b. Ease of use for city and applicants.
  - c. How to ensure consistency between applications and over time, and adequate record keeping.
  - d. Identifying the policy basis for the amendment.